

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

SCOTTSDALE INSURANCE COMPANY,
an Ohio corporation,

Plaintiff,

v.

**QUALITY EXCAVATION SYSTEMS,
INC.,** an Oregon corporation,

Defendant.

Case No. 3:23-cv-1623-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on June 5, 2024. Judge You recommended that this Court grant Plaintiff’s motion for default judgment. No party has filed objections.

Under the Federal Magistrates Act (Act), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas v. Arn*, 474

U.S. 140, 154 (1985). Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

Judge You recommends awarding Plaintiff interest at Oregon’s statutory interest rate of nine percent. Plaintiff, however, did not request prejudgment interest and Judge You does not recommend awarding prejudgment interest. “In diversity cases such as this one, the court looks to state law to determine the rate of prejudgment interest, while federal law determines the rate of post judgment interest.” *Lagstein v. Certain Underwriters at Lloyd's of London*, 725 F.3d 1050, 1055 (9th Cir. 2013) (footnote omitted). Accordingly, the Court declines to adopt that portion of the Findings and Recommendation and will enter judgment awarding post judgment interest at the federal interest rate. Otherwise, the Court adopts Judge You’s Findings and Recommendation.

The Court ADOPTS IN PART Judge You’s Findings and Recommendation, ECF 17. The Court GRANTS Plaintiff’s Motion for Default Judgment, ECF 14. The Court will enter judgment awarding Plaintiff \$14,639.39, plus post judgment interest at the federal rate, along with declaring that Plaintiff owes no duty under the 2021 and 2022 insurance policies to defend or indemnify Defendant with respect to a lawsuit captioned *Chira Construction, Inc. v. Quality Excavation Systems, Inc., et al.*, Polk County Circuit Court Case No. 23CV25879 and that Plaintiff may withdraw from that lawsuit.

IT IS SO ORDERED.

DATED this 15th day of July, 2024.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge